1941

File No. B. Prev. of Agri Pests and Diseases/41

Legal DEPARTMENT

B BRANCH

Subject:— Governor's Bill No. XV of 1941

A Bill to provide for the prevention of the introduction, spread or reappearan of insect pests, plant diseases and noxious weeds or trees in the Province of Bombay.

Bom. XIV of 1941

P.T.O.

File No. B. Prev. of Agri. Pests & Diseases/41

Std. Sectt. Slip 24 B a.

511-B.

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S.O.
13th April 1956.

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Progress Sheet

Governor's Bill No. XV of 1941 (A Bill to provide for the prevention of the introduction spread or reappearance of insect pests, plant diseases and noxious weeds injurious to crops plants or trees in the province of Bombay.

I Papers of Bill received in L.D. on 28-10-39

II ~~Orders of the Governor~~ Consideration of Bill recommended by the Governor to the Assembly on council

III Orders of the Governor as to sanction obtained on

IV Bill published on

V. Translation of the Bill published on :-

in Marathi
in Gujarati
in Kannada.
in Urdu.

VI 10 copies of the Bill as introduced in Assembly /council sent to the Government of India, Legislative Department, on

VII 10 copies of S.C.'s report or/and copies as passed by the L.A./L.C. sent to the Government of India Legislative Department, on

VIII. Notice of Bill given to Secy. L.C./L.A.

IX. Consideration of Bill recommended to the Council/ Assembly on

X. 10 copies of the Bill as introduced in the Assembly council sent to the Government of India, Legislative Department, on

XI. Extracts from proceedings in L.A.& L.C. sent to the Goverbment of India, Legislative Department, on

XII Assent of the Governor received on 3rd Sept. 1941.

XIII Notification under section 82 of the Government of India Act, 1935 (supplied to the Administrative Deptt, on 9th Sept. 1941.)

XIV Act published on 12th Sept. 1941.

XV. Translations of the Act published on :-

In Marathi
In Gujarati
In Kannada.
In Urdu

Supplied.

XVI. 5 copies of the Act published to the Secretary to the Governor and 10 copies to the Government of India, Legislative Department , on 17th Sept. 1941.

A revised draft Bill is appended.

2. As this is a Bill to be passed by the Governor into an Act the necessary preamble has been appended.

3. Clause 2.- New definitions of "Assessor", "Inspector", "pest" and "prescribed" have been inserted for facility of drafting. Instead of using the expression "inspecting officer" and "valuing officer" it would be desirable to use the usual expression "Inspector" and Assessor".

4. Clause 8 in the R.D. draft - clause 12 of the revised draft.- Provision has been made in sub-clause (2) of revised clause 12 that the Collector shall, after making further enquiries, make a report to Government in order to enable it to take action under section 3 if necessary.

5. Clause 11.- (a) Sub-clause of the revised draft provides that in cases falling under (a) and (b), the compensation shall not exceed fifty per cent of the value of the tree or plant destroyed. The Assessor will have, however, no basis on which he may determine whether the compensation should be 10 % or 25 % or 50 % of the value of the tree or plant. R.D. may, therefore, consider whether it would not be desirable to specify the percentage of the value of the tree or plant which should be awarded as compensation in such cases.

(b) The provision of clauses 13 in the R.D. draft have been embodied in proviso (1) in sub-clause (2) of this clause

(c) Provision has been made as suggested by A-III at page 157 ante in proviso (iii) to sub-clause (2) of this clause that no compensation shall be payable for the destruction of plants which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures directed under section 3.

(d) A new sub-clause (3) has been added to the effect that the amount of compensation may be set off against the amount of costs due from the occupier.

(e) It has been provided in sub-clause (6) of the

revised draft that the Collector shall give an opportunity both to the occupier as well as to the Inspector of being heard as an appeal may be preferred by the occupant.

6. Clause 12 in R.D. draft - clause 9 of the revised draft. The clause has been revised so as to provide that compensation for trees and plants destroyed by the occupier shall be the same to which he would be entitled if such trees or plants were destroyed by the Inspector.

7. Clause 14 of the R.D. draft - clause 13 of the revised draft.- Breach of the provision of the rules has also been made punishable by this clause as revised.

8. Clause 16 of the R.D. draft - clause 14 of the revised draft.- It is not necessary to specify in the Act the officers who may be appointed as Inspectors or Assessors.

9. The proposed Bill is covered by entries 20 and 37 in List II of the Seventh Schedule to the Government of India Act, 1935. It does not relate to any entry in List III of the Schedule and does ~~xix~~ not therefore require to be reserved for consideration of the Governor General under section 107(2) of the Act. Under executive orders it would however require the previous approval of the Governor General before enactment.

Remembrancer of Legal Affairs.

U.R' to the R.D., No. 10276 dated the 22nd November 1940.

18th April 1956

Office of the R.L.A.

The Bombay Agricultural Pests and Diseases Bill has been sent for previous approval to the Governor General. The Director of Agriculture has since suggested two amendments in the Bill, a comma to be inserted after the word "fungoid" in clause 2(9) and "seven " to be changed to "three" in clause 6(2). The second amendment has not been agreed to by A(F). The second amendment has not been agreed to by A(F). The first amendment is of a very minor nature and it does not seem necessary to send a copy of the Bill in the final form again to the Governor General.

2. It may be pointed out that the previous approval of the Governor General is required only under executive instructions and Secretary to Governor and not R.L.A. should therefore have been consulted on the question now raised .

Remembrancer of Legal Affairs

U.R. to R.D. No. 126-L dated the 18th July 1941.

Legal Department.

It is presumed that the papers are referred to this Department for obtaining the assent of the Governor to the Bill and after obtaining the assent to publish it in the Bombay Government Gazette as an Act.

2. The R.D. is in the first instance requested to supply to this Department 20 copies of the Bill, 4 printed on blue paper and 16 printed on white paper, with a full statement of objecti and reasons attached to ~~k~~ it as required by the Secretary to the Governor's Memorandum No. 201 (12) dated 4th August 1941. Such statement will have to be prepared by the R. . see instruction 25(2 of the Instructions issued under rule 15 of the Rules of Business. The copies of the Bill forwarded by the R.D. will not be useful for thespurpose and the Bill will have to be reprinted While reprinting the Bill, the R.D. is requested to substitute the figures "1941" for the figures "1940" in clause 1(1), to insert the words and fogure "of section "8" after the brackets and figure "(1)" (2)(c) and. 2 in sub- clauses (2)(b) and the words "or tree" after the word ~~the word~~ "plant" in sub-clause (2)(c) of clause 11 of the Bill.

3. A revised draft notification under section 92 of the Government of India Act, 1935, will be supplied to the R.D. in the due course.

Secretary to Government

U.R. to R.D. No. 7073 dated the 11th August 1941.

S.C.

18th April 1956.

No. 243 - L

Legal Department.

Council Hall, Poona. 27th August 19

From

P. N. Koos, Esquire, Bar-at-law, I.C.S.,
Secretary to the Government of Bombay

To

The Secretary to the Governor of Bombay.

-Subject:- Bombay Agricultural Pests and Diseases

Sir,

With reference to your Memorandum No. 201(26) dated the 21st February 1941, addressed to the Revenue Department, on the above subject, I am directed to forward herewith for the assent of His Excellency the Governor, a copy of the Bombay Agricultural Pests and Diseases Bill prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under sect 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b) (c) or (d) of Paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entries Nos. 20 and 27 in the Provincial Legislative List in the Seventh Schedu to the Government of India Act, 1935. None of the provisions of the Bill relates to any matter enumerated in the Concurrent Legislative List, It is not, therefore, necessary to reserve the Bill for consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

5. I also forward herewith one spare copy of the Bill,

I have the honour to be,

Sir,

Your most obedient servant,

Secretary to the Government of Bombay,
Legal Department.

Through:

The Secretary to the Government of Bombay,

Revenue Department.

J. C.

No.201(26)

Office of the Governor's Secretary,
Government House,
Ganeshkhind, 8th September 1941.

From

J.B. Irwin, Esquire, DSO. MC. ICS.
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department, Poona

Subject: Bombay Agricultural Pests and Diseases Bill.

Sir,

With reference to your letter No.243-L, dated the 27th August 1941, forwarding a copy of the Bombay Agricultural Pests and Diseases Bill prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, I am directed to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Excellency. Majesty

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified thereon.

3. The statement accompanying the Act should be published with it without His Excellency's signature.

I have the honour to be,
Sir,
Your most obedient servant,

Secretary to the Governor of Bombay.

S.C.

Acts.

Publication of the Bombay Agricultural Pests and Diseases Act, 1941.

GOVERNMENT OF BOMBAY
Legal Department.
Resolution No. 265-L

Bombay Castle, 9th September 1941.

Letter to the Secretary to the Governor, No.243-L, dated the 27th August 1941.

Letter from the Secretary to the Governor, No.201(26), dated the 6th September 1941.

"With reference to your letter No.243-L dated the 27th August 1941, forwarding a copy of the Bombay Agricultural Pests and Diseases Bill prepared by His Excellency the Governor under paragraph (2) of the proclamation, dated the 4th November 1939 issued by him under section 98 of the Government of India Act, 1935, I am directed to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

2. The copy of the Bill is returned herewith with His Excellency the Governor's assent signified thereon.

3. The Statement accompanying the Act should be published with it without His Excellency's signature."

RESOLUTION.- The law should be published as Bombay Act No.XIV of 1941, in the Bombay Government Gazette dated the 12th September 1941.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department

No.670/39-I, dated the 22nd August 1941.

By order of the Governor of Bombay,

P.N.MOSS

for(Secretary to Government)

To

The Manager Government Central Press, Bombay, (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department in Poona.)

The Revenue Department.
*The Oriental Translator to Government.
The Secretary to the Bombay Legislative council.
The Secretary to the Bombay Legislative Assembly.
} with a copy of the Act.

*With five extra copies.

Legal Department.

The Bombay Agricultural Pests and Diseases Bill, 1941 has received the assent of His Excellency the Governor on the 3rd September 1941 and it is being published as Bombay Act XIV of 1941 in the Bombay Government Gazette dated the 12th September 1941, with the statement attached to it.

2. A revised draft notification under section 92(1) of the Government of India Act, 1935, for applying the Bombay Act XIV of 1941 to the partially excluded areas in the Province is furnished herewith to the Revenue Department.

for Secretary to Government

U.R. to R.D. No. 266-L dated the 9th September 1941.

G.C.
18th April 1946

NOTIFICATION

Revenue Department

Bombay Castle, 1941.

No. In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Agricultural Pests and Diseases Act, 1941 (Bom.XIV of 1941), shall apply to the partially excluded areas in the Province of Bombay.

By order or the Governor of Bombay

Secretary to Government.

S.C.

18th April 1956